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June 27, 2011

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20534

**RE: Objection to Request for Confidential Information filed in CC Docket No. 01-92; GN Docket No. 09-51; WC Docket Nos. 05-337, 07-135 and 10-90 (Data Related to Universal Service and Intercarrier Compensation Reform)**

Dear Ms. Dortch:

On May 25, 2011, John Staurulakis, Inc. ("JSI") filed Data Request Responses containing confidential data on behalf of sixty three (63) companies in CC Docket No. 01-92; GN Docket No. 09-51; WC Docket Nos. 05-337, 07-135 and 10-90. ("May 25, 2011 FCC Data Request Response.") JSI is the cost consultant for the sixty-three companies, and consequently acted as the Submitting Party of the information filed with the FCC.

On June 21, 2011, JSI received an email request for access to the May 25, 2011, FCC Data Request Response from Amanda Delgado of Levine, Blaszak, Block, and Boothby, LLC. JSI hereby files the attached Objection Letter with the Commission today in accordance with the terms of the Protective Order in the above mentioned dockets.<sup>1</sup> This Objection Letter is also being sent today via E-mail to Ms. Sharon E. Gillett, Chief, Wireline Competition Bureau, in accordance with the Protective Order in the instant proceeding, as well as to the other copied parties noted below.

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<sup>1</sup> *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *et. al.*, Protective Order, 25 FCC Rcd 13160 (2010) (Protective Order).

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**Ms. Dortch**

**Page 2**

Any questions regarding this matter may be directed to me at the address and telephone number listed above, or by email at [kcartmell@jsitel.com](mailto:kcartmell@jsitel.com).

Sincerely,

*/s/ Kenneth T. Cartmell*

Kenneth T. Cartmell  
JSI-Manager-Regulatory Affairs

KTC/tms  
Attachment

CC:   \*Sharon Gillett, WCB, Federal Communications Commission  
      \*Kevin King, WCB, Federal Communications Commission  
      \*Lynne Hewitt Engledow, PPD, Federal Communications Commission  
      \*Marcus Maher, WCB, Federal Communications Commission  
      \*Amanda Delgado, Levine, Blaszak, Block, and Boothby, LLP

\*Copied parties served via E-mail.



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June 27, 2011

Sharon E. Gillett  
Chief, Wireline Competition Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20534

**RE: Objection to Request for Confidential Information filed in CC Docket No. 01-92; GN Docket No. 09-51; WC Docket Nos. 05-337, 07-135 and 10-90 (Data Related to Universal Service and Intercarrier Compensation Reform)**

Dear Ms. Gillett:

On May 25, 2011, John Staurulakis, Inc. ("JSI") filed Data Request Responses containing confidential data on behalf of sixty three (63) companies in CC Docket No. 01-92; GN Docket No. 09-51; WC Docket Nos. 05-337, 07-135 and 10-90. ("May 25, 2011, FCC Data Request Response.")<sup>1</sup> JSI is the cost consultant for the sixty-three companies, and consequently acted as the Submitting Party of the information filed with the FCC.

On June 21, 2011, JSI received an email request for access to the May 25, 2011 FCC Data Request Response from Amanda Delgado of Levine, Blaszak, Block, and Boothby, LLC.<sup>2</sup> JSI hereby files the attached Objection Letter with the Commission today in accordance with the terms of the Protective Order in the above mentioned dockets.

The information provided by JSI on behalf of the sixty-three companies was provided voluntarily by those companies with the understanding that such data would be held in confidence and only viewed by government personnel and its agents in order to aid in the development of the regulatory reform measures that are central to the captioned dockets. Although representatives from all sixty-three companies had numerous concerns about providing this information in light of the potential for disclosure of this information to

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<sup>1</sup> See FCC Data Request Response from Kenneth Cartmell, JSI to Marlene H. Dortch, FCC. (May 25, 2011)

<sup>2</sup> See attached Appendix A for E-mail from Amanda Delgado, Levine, Blaszak, Block, and Boothby, LLP to Kenneth T. Cartmell, JSI. (June 21, 2011, 9:52 AM EDT)

outside parties, JSI encouraged these parties to provide this sensitive and confidential information to the FCC in response to the Commission's request. Given the sensitive nature of the data provided, JSI and the sixty-three companies expect that the data will remain confidential pursuant to the Protective Order<sup>3</sup> in the captioned dockets.

Furthermore, JSI hereby demonstrates that the highly sensitive data provided satisfies the requirements for confidential treatment pursuant to 47 C.F.R. § 0.459. Accordingly, on behalf of the sixty-three companies, JSI objects to the request by Amanda Delgado of Levine, Blaszak, Block, and Boothby, LLC, for access to JSI's May 25, 2011, FCC Data Request Response, confidential data submission.

When requesting confidential treatment pursuant to 47 C.F.R. § 0.459, a party is required to provide detailed explanations as to why the data should not be available for public inspection.<sup>4</sup> JSI submits the following information pursuant to 47 C.F.R. § 0.459 in support of its request for confidential treatment of the data provided to the FCC in the May 25, 2011, FCC Data Request Response.

**\*Identification of the specific information for which confidential treatment is sought:**

JSI seeks confidential treatment of the information filed in hard copy with the FCC, which contains confidential and proprietary information related to interstate and intrastate intercarrier compensation revenues, expenses, line counts, local rates, usage patterns, other regulated and non-regulated revenues.

**\*Identification of the Commission proceeding in which the specific information was submitted or a description of the circumstances giving rise to the submission:**

This information was submitted in response to the Wireline Competition Bureau request for information in connection with CC Docket No. 01-92; GN Docket No. 09-51; WC Docket Nos. 05-337, 07-135 and 10-90 (Data Related to Universal Service and Intercarrier Compensation Reform.)

**\*Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged:**

The information provided in the May 25, 2011, FCC Data Request Response contains sensitive provider specific information provided to JSI for the discrete purpose of

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<sup>3</sup> *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *et. al.*, Protective Order, 25 FCC Rcd 13160 (2010) (Protective Order).

<sup>4</sup> 47 C.F.R. § 0.459

providing the Commission with the information it requested in order to make reasonable decisions regarding Universal Service and Intercarrier Compensation Reform. Pursuant to the Commission's Order in this proceeding, the Commission clearly recognizes the confidential nature of the information being requested as indicated below in the language found in NPRM.

“To support our consideration of a revenue recovery mechanism, the Commission requests data to analyze existing revenues, assess the magnitude of the revenue reductions resulting from the proposed reforms, and determine the appropriate size and scope of a recovery mechanism. In requesting these data, we seek to minimize the burden on commenters while requesting sufficient information to enable the Commission to develop and size a recovery mechanism. In particular, we request information regarding switched access revenue, expense, and minutes of use (MOU), on a by-provider, by-state basis for intrastate access, interstate access, and reciprocal compensation. For NECA pool carriers, this would include both billable and settlement revenue. Additionally, we request total regulated revenue and total revenue to understand the significance of intercarrier compensation revenue as a percent of total regulated revenue and total revenue. We also request information concerning residential rates. All such requests are made for annual data from 2008 to 2010, pro-forma for all mergers, acquisitions, and divestitures. We recognize the commercially sensitive nature of this information, and have established a protective order in this docket to permit the data to be provided subject to confidentiality protections.”<sup>5</sup>

At the provider level, the interstate access revenue and expense information is deemed to be confidential by the sixty-three companies that provided this information through JSI. It would be highly inappropriate for the data to be disclosed to the public or third parties at this time.

**\*Explanation of the degree to which the information concerns a service that is subject to competition:**

Rural telephone service has historically lent itself to “cherry picking” by competitors that choose to serve only the low cost areas within a study area. Detailed information about revenues and expenses of rural telecommunications service providers may help prospective competitors gain insight into Incumbent Local Exchange Carrier (“ILEC”) market strategies, strengths, weaknesses, and areas where a competitor may be able to

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<sup>5</sup> *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, and Lifeline and Link-Up*, WC Dockets No. 10-90 et al., FCC 11-13 (rel. Feb. 9, 2011); 76 Fed. Reg. 11632-11663 (2011) (“NPRM”).

exercise a competitive advantage. Consequently, the disclosure of such information would harm the sixty-three companies' competitive positions.

**\*Identification of any measures taken by the submitting party to prevent unauthorized disclosure:**

The information provided to the FCC in the May 25, 2011, FCC Data Request Response was labeled as confidential in accordance with the Protective Order in this proceeding. A redacted version of this information was also filed with the FCC in the May 25, 2011, FCC Data Request Response which eliminated all of the sensitive information submitted at that time. The redacted version of the filing embodies exactly what the sixty-three companies and JSI envisioned would be made available to third parties if necessary. If similar information were to be made available to third parties by the sixty-three companies or JSI, that information would only be made available on an aggregate basis, and would only be provided to the public under extraordinary circumstances.

**\*Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties:**

The information provided in the May 25, 2011, FCC Data Request Response to the FCC in hard copy is not publicly available.

**\*Justification of the period during which the submitting party asserts that the material should not be available for public disclosure:**

JSI, on behalf of the sixty-three companies asserts that the information provided in the May 25, 2011, FCC Data Request Response should be treated as confidential indefinitely. Due to the sensitive nature of the data, it would not be appropriate for public disclosure at any time in the foreseeable future.

**\*Any other information that the party seeking confidential treatment believes may be useful in assessing whether its request for confidentiality should be granted:**

In the event that this Commission was to "overrule" JSI's Objection to this data request, the Commission should take care to not deprive the sixty-three companies from having the opportunity to speak on their own behalf, and further demonstrate how their particular circumstances warrant additional consideration, and support continued confidential treatment of their respective data. This opportunity should be afforded in conjunction with this review by the FCC, as well as in the context of any FOIA request. In either instance, the sixty-three companies should be given a reasonable opportunity to file detailed information supporting continued treatment of their respective data. JSI's request for confidentiality and the rationale for this request is applicable for all demands from third parties to inspect the May 25, 2011, FCC Data Request Response, including the present demand submitted Amanda Delgado of Levine, Blaszak, Block, and Boothby, LLC.

**Ms. Gillett**  
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For all of the reasons discussed above, JSI respectfully urges the FCC to uphold this Objection to the Request for Confidential Information, filed in response to the request to inspect the May 25, 2011, FCC Data Request Response which was submitted to me via E-mail by Amanda Delgado of Levine, Blaszak, Block, and Boothby, LLC. Failure to do otherwise will put the sixty-three companies at risk of serious economic harm as competitors and/or potential competitors will obtain a significant competitive advantage based on their access to this information. Additionally, disclosure of this data, even under the Protective Order in the instant proceedings, would most definitely have a chilling effect and impede the FCC's ability to collect information from rural providers in the future.

Any questions regarding this matter may be directed to me at the address and telephone number listed above, or by email at [kcartmell@jsitel.com](mailto:kcartmell@jsitel.com).

Sincerely,

*/s/ Kenneth T. Cartmell*

Kenneth T. Cartmell  
JSI-Manager-Regulatory Affairs

KTC/tms  
Attachment

# Appendix A

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**Ken Cartmell**

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**From:** Delgado, Amanda [ADelgado@lb3law.com]  
**Sent:** Tuesday, June 21, 2011 9:52 AM  
**To:** Ken Cartmell  
**Cc:** Brown, Andrew  
**Subject:** Request to view unredacted FCC data submission filed in A National Broadband Plan for Our Future and related dockets under the September 16, 2010 Protective Order

Kenneth Cartmell  
Manager  
John Staurulakis Incorporated

**Re: CC Docket No. 01-92; GN Docket No. 09-51; WC Docket Nos. 05-337, 07-135 and 10-90 (Data Related to Universal Service and Intercarrier Compensation Reform)**

Mr. Cartmell,

I am writing to request access to the unredacted version of JSI's data submission filed with the FCC on May 25, 2011.

The individuals who will review this information have filed Acknowledgements pursuant to the September 16, 2010 Protective Order (the "Protective Order") in the above-identified dockets which you can view at <http://fjallfoss.fcc.gov/ecfs/document/view?id=7021034526>.

In accordance with the Protective Order, we will bear the reasonable costs your firm may incur in reproducing and mailing the documents to us.

Please let me know by which means you prefer to make the confidential data available for review. If the volume of documents warrants, we would be happy to receive the documents on a CD.

Thank you very much for your consideration of this request.

Sincerely,

Amanda J. Delgado

Amanda J. Delgado  
Levine, Blaszak, Block & Boothby, LLP  
2001 L Street, NW Suite 900  
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6/24/2011